IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.01.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19450 of 2003
and
W.P.M.P.Nos.24283 & 24284 of 2008

G.K.Alloys Steels(P) Ltd.,
Rep.by its Manager K.Venkatesh
Velayuthapalayam
Avanashi
Coimbatore – 641 654 .. Petitioner

vs

1.The Chairman
Tamil Nadu Electricity Board
800, Anna Salai
Chennai – 600 002.

2.The Superintending Engineer
Tamil Nadu Electricity Board
Coimbatore Electricity Distribution(North)
Coimbatore – 641 012.

3.The Accounts Officer
Tamil Nadu Electricity Board
Coimbatore Electricity Distribution(North)
Coimbatore – 641 012. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Bill dated 1.7.2003 in respect of HTSC No.137 on the file of the third respondent and to quash the same in so far as the claim for a sum of Rs.14,49,749/- is concerned and to direct the respondents to permit the petitioner company to pay a sum of Rs.18,64,930/- in 12 equal monthly instalments.

For Petitioner : Mr.G.Vasudevan

For Respondents : Mr.S.K.Raameshwar, Standing counsel for Electricity Board

O R D E R

The Bill demand dated 01.07.2003 in respect of HTSC No.137 on the file of the 3rd respondent is sought to be quashed in the present writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the petitioner is a Company manufacturers steel castings and steel products. The Petitioner Company has been provided with high tension electricity service connection bearing HTSC No.137. The learned counsel for the writ petitioner states that the allegations and the raising of Bill amount is contrary to the facts and circumstances and the writ petitioner has not violated any of the provisions of the Tamil Nadu Electricity Supply Code or the Tamil Nadu Electricity Distribution Code. The writ petitioner was utilizing the service connection in accordance with the terms and conditions and the petitioner had not committed any violations of the regulations in this regard. Therefore, the original records are to be verified since the writ petitioner has raised a doubt in respect of the inspection conducted and the manner in which the bill amount was raised by the authorities concerned.

3.At the outset, the learned counsel for the writ petitioner states that the circumstances and the factual details set out for raising of the impugned bill is not in consonance with the original facts now placed before the writ petitioner in the present writ petition. However, such verification requires examination of original records and adducing of evidences, if required by the competent Forum. Such an exercise can never be done in a writ jurisdiction under Article 226 of the Constitution of India. Complex facts and circumstances, if any raised by the parties concerned, the same are to be adjudicated by producing the original documents and by adducing the evidences before the competent Forum and therefore, this Court is of an opinion that all such factual details with reference to the original files are to be raised before the authorities concerned constituted for the purpose of such allegations.

*** 4.The learned Standing counsel appearing on behalf of the respondents disputes the contentions raised by the writ petitioner by stating that the writ petitioner has violated the regulations and the claim for audit short levy for having Arc Furnace in the service connection to the tune of Rs.12,33,749/- was levied as the Arc Furnace was in existence from 05.09.2001 and the existence of the Arc Furnace as on 05.09.2001 has been**

**confirmed by the Senior Electrical Inspector to Government in his letter dated 28.04.2003. The levy of charges for Arc Furnace to the tune of Rs.12,33,749/- upto the period 12/2001 is correct as per latest Rules, since the petitioner has not intimated of the change in load and he has not furnished the revised test report. The petitioner himself has accepted that the Board had implemented the order. How ever, the petitioner disputes the demand and it is left open for the petitioner to challenge. As the Senior Electrical Inspector to the Government confirmed the availability of the Arc Furnace even during 05.09.2001, the levy of 25% surcharge as per G.O.Ms.No.13(C3) Energy Department dated 11.04.2001 for the period up to 12/2001 is correct and it is not in firm. As per the report of the Senior Electrical Inspector to Government(SEIG), the petitioner has not intimated the removal of the Arc Furnace to the Respondent till date. The petitioner has not furnished the revised test report. The Senior electrical Inspector to the Government has confirmed the availability of the report in his Letter dated 28.04.2013. The respondents state that an amount of Rs.2,16,000/- pertaining to the short levy of demand charges pointed out by the Audit officials and therefore, there is no infirmity in respect of the actions initiated and the Bill claimed, which is impugned in the present writ petition.**

5.Even the factual disputes raised by the writ petitioner has been disputed by the respondents in the present writ petition. Even as per the report of the Government officials, the Arc Furnace was being used by the writ petitioner from the year 2001 onwards. There was no intimation provided by the writ petitioner to the authorities competent and therefore, the audit report submitted was the basis for raising the bills for the usage of Arc Furnace by the petitioner.

6.This being the factum of the case, this Court is of an opinion that if at all the writ petitioner disputes such facts regarding the commissioning of Arc Furnace in his premises, the same is to be adjudicated by producing the original documents and by adducing the evidences before the Consumer Grievances Redressal Forum constituted under Clause 18 of the Tamil Nadu Electricity Supply Code. The Consumer Grievances Redressal Forum is competent to adjudicate all such factual disputes by verifying the original records and the documents, if any filed by the complainant or other persons. In this regard, the petitioner is at liberty to approach the Consumer Grievances Redressal Forum constituted under Clause 18 of the Tamil Nadu Electricity Supply Code for adjudication of the facts and the other details on merits and accordingly, the Forum, in the event of receiving any such appeal or application from the writ petitioner, the same shall be adjudicated by affording

opportunity to all the parties concerned and by verifying the original records and an order shall be passed on merits and in accordance with law within a reasonable period of time.

7.With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)
Dated: 14/03/2019

*** Para 4 Amended as per order of this Court dated 07.03.2019**
**Sd/- Assistant Registrar(CS III)**
**Dated: 14/03/2019**

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman
Tamil Nadu Electricity Board
800, Anna Salai
Chennai - 600 002.

2.The Superintending Engineer
Tamil Nadu Electricity Board
Coimbatore Electricity Distribution(North)
Coimbatore - 641 012.

3.The Accounts Officer
Tamil Nadu Electricity Board
Coimbatore Electricity Distribution(North)
Coimbatore - 641 012.

+1 cc to Mr.S.K.Raameshuwar, Advocate SR.No.4752
+1 cc to Mr.G.Vasudevan, Advocate SR.No.3599

W.P.No.19450 of 2003

KJI(CO)
CSL/18.02.2019.
GN(14/03/2019)